

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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4 LATROYMEN CRAIN,  
5 Plaintiff,  
6 v.  
7 CARL ARNOLD, *et al.*,  
8 Defendants.

Case No. 2:20-cv-01054-APG-VCF

**ORDER**

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10 On June 18, 2020, Magistrate Judge Ferenbach issued an order directing plaintiff  
11 Latroymen Crain to file a fully complete application to proceed *in forma pauperis* or pay the full  
12 filing fee of \$400 by August 17, 2020. ECF No. 3 at 2-3. That deadline has now expired and  
13 Crain has not filed an application to proceed *in forma pauperis*, paid the \$400 filing fee, or  
14 otherwise responded to the order.

15 District courts have the inherent power to control their dockets and “[i]n the exercise of  
16 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.  
17 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may  
18 dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to  
19 obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-  
20 54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*,  
21 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order  
22 requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)  
23 (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court

1 apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming  
2 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424  
3 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local  
4 rules).

5 In determining whether to dismiss an action for failure to obey a court order, I must  
6 consider several factors: (1) the public's interest in expeditious resolution of litigation; (2) the  
7 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public  
8 policy favoring disposition of cases on their merits; and (5) the availability of less drastic  
9 alternatives. *See Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d  
10 at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 Here, the first two factors (the public's interest in expeditiously resolving this litigation  
12 and my interest in managing the docket) weigh in favor of dismissal. The third factor (risk of  
13 prejudice to the defendants) also weighs in favor of dismissal because a presumption of injury  
14 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or  
15 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth  
16 factor (public policy favoring disposition of cases on their merits) is greatly outweighed by the  
17 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his  
18 failure to obey an order will result in dismissal satisfies the "consideration of alternatives"  
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at  
20 1424. Judge Ferenbach's order expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff  
21 does not file a fully complete application to proceed *in forma pauperis* with all three documents  
22 or pay the full \$400 filing fee for a civil action on or before August 17, 2020, the Court will  
23 dismiss this action without prejudice for Plaintiff to refile the case with the Court, under a new

1 case number, when Plaintiff has all three documents needed to file a complete application to  
2 proceed *in forma pauperis* or pays the full \$400 filing fee.” ECF No. 3 at 3. Thus, Crain had  
3 adequate warning that dismissal would result from his noncompliance with Judge Ferenbach’s  
4 order.

5 I THEREFORE ORDER that this action is dismissed without prejudice based on plaintiff  
6 Latroymen Crain’s failure to file an application to proceed *in forma pauperis* or pay the full  
7 filing fee in compliance with Judge Ferenbach’s order dated June 18, 2020.

8 I FURTHER ORDER the Clerk of Court to enter judgment accordingly and close this  
9 case.

10 DATED: August 25, 2020.

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13 ANDREW P. GORDON  
14 UNITED STATES DISTRICT JUDGE  
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